

Message Text

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ACTION ARA-14

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-10
L-03 NSAE-00 NSC-05 PA-01 SP-02 SS-15 ICA-11
AID-05 HA-05 /078 W
-----047760 262236Z /73

P R 262115Z JUN 78
FM AMEMBASSY BRASILIA
TO SECSTATE WASHDC PRIORITY 8034
INFO AMCONSUL RIO DE JANEIRO
AMCONSUL SAO PAULO
AMEMBASSY ASUNCION
AMEMBASSY BOGOTA
AMEMBASSY BUENOS AIRES
AMEMBASSY CARACAS
AMEMBASSY LA PAZ
AMEMBASSY LIMA
AMEMBASSY MONTEVIDEO
AMEMBASSY SANTIAGO
AMEMBASSY QUITO
AMEMBASSY GEORGETOWN
AMEMBASSY PARAMARIBO

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EO 11652 NA
TAGS PINT BR
SUBJECT: GEISEL'S CONSTITUTIONAL REFORM PACKAGE

REF: BRASILIA 4969

SUMMARY: THIS MESSAGE REPORTS DETAILS OF PRESIDENT GEISEL'S
ANNOUNCEMENT OF HIS CONSTITUTIONAL REFORM PACKAGE (REFTEL), WHICH
IS ALREADY UNDERGOING SOME MODIFICATION. END SUMMARY.

1. GEISEL'S PROPOSED CONSTITUTIONAL REFORM PACKAGE IS IN FORM
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OF AMENDMENTS TO SPECIFIC ARTICLES OF BRAZIL'S 1967 CONSTITUTION, AS
ITSELF AMENDED IN OCTOBER 1969. TEXT WILL BE SUBJECT TO SOME MODIFI-
CATIONS DURING ITS DELIBERATION BY THE CONGRESS, ALTHOUGH WHETHER
ANY OF THESE WILL BE SUBSTANTIVE REMAINS TO BE SEEN. AS ISSUED,
HOWEVER, LAST LINE OF TEXT, STATING REFORMS WILL BECOME EFFECTIVE
ON MARCH 15, 1979, ALREADY SEEMS TO HAVE BEEN MODIFIED, IN THAT
REFORMS ARE NOW EXPECTED TO TAKE EFFECT ON JANUARY 1, 1979. MORE-

OVER, PRESS JUNE 26 REPORTED THAT GOB HAS AGREED TO REWRITE SECTION DEALING WITH "MEASURES OF EMERGENCY" (SEE PARA 3 BELOW) BECAUSE, AS WRITTEN, THIS SECTION COULD BE INTERPRETED (AND IMPLEMENTED) IN REPRESSIVE FASHION UNINTENDED BY GEISEL. JORNAL DO BRASIL EDITORIALY COMPLIMENTED GOB ON ITS "RAPID RESPONSE" TO CRITICS OF THIS SECTION. PAPER SAID RESPONSE "CONTRIBUTED TO MAKE DEBATE ON REFORMS MORE OPEN, MORE SERIOUS AND, THEREFORE, MORE DEMOCRATIC."

2. AS EXPLAINED BY GEISEL IN HIS NATIONWIDE ADDRESS, REFORM PACKAGE DOES THE FOLLOWING: QUOTE IT ELIMINATES THE ACTS OF EXCEPTION, BOTH THE INSTITUTIONAL ACTS AND THE COMPLEMENTARY ACTS, IN ANY WAY THAT THEY ARE CONTRARY TO OTHER CONSTITUTIONAL PROVISIONS. FROM THIS, IN ESSENCE, FLOWS THE FOLLOWING:

--FIRST, REESTABLISHMENT OF CONSTITUTIONAL OR LEGAL GUARANTEES OF LIFE TENURE, NON-TRANSFERABILITY WITHOUT CONSENT, AND IRREDUCIBILITY OF SALARIES OF THE JUDICIARY;
--REESTABLISHMENT OF HABEAS CORPUS IN CASES OF POLITICAL CRIMES AGAINST THE NATIONAL SECURITY AND THE ECONOMIC AND SOCIAL ORDER;
--AND END, AMONG OTHER THINGS, OF PRESIDENTIAL AUTHORITY: A) TO RECESS LEGISLATIVE BODIES AND, CONSEQUENTLY, TO LEGISLATE IN ALL MATTERS; (B) TO DECREE INTERVENTIONS IN THE STATES AND MUNICIPALITIES WITHOUT REGARD TO CONSTITUTIONAL LIMITATIONS; C) TO DECREE AND EXTEND A STATE OF SIEGE WITHOUT CONGRESSIONAL APPROVAL; D), TO SUSPEND THE POLITICAL RIGHTS OF ANY CITIZEN AND CASSATE ELECTIVE MANDATES; E) TO BANISH BRAZILIANS; F) TO DISMISS, TRANSFER TO RETIRE, OR SUSPEND MEMBERS OF THE JUDICIARY, AND EMPLOYEES OF LIMITED OFFICIAL USE

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GOVERNMENT OR GOVERNMENT ENTERPRISES; G. TO DISMISS, TRANSFER TO THE RESERVE OR RETIRE MEMBERS OF THE MILITARY OR MILITARY POLICE; (THE PACKAGE) ALSO

--ASSURES THE INVIOABILITY OF MEMBERS OF THE LEGISLATIVE BRANCH IN THE EXERCISE OF THEIR MANDATE FOR THEIR OPINIONS, WORDS AND VOTES, EXCEPT IN CASES OF CRIMES AGAINST NATIONAL SECURITY;
--REGULATES THE ORGANIZATION AND FUNCTIONS OF POLITICAL PARTIES, FACILITATING THE CREATION OF NEW PARTIES WITHOUT, HOWEVER, PERMITTING THE PROLIFERATION OF SMALL UNREPRESENTATIVE PARTIES AS IN THE PAST. UNQUOTE

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3. GEISEL WENT ON TO STRESS WHAT HE SAID WAS, IN HIS VIEW, "AN ESSENTIAL CONDITION": THE CREATION OF "MEASURES TO GUARANTEE TO THE STATE CONDITIONS FOR ITS DEFENSE AND THAT OF SOCIETY. IN ADDITION TO RETAINING THE TRADITIONAL STATE OF SIEGE THAT HAS BEEN INCLUDED IN ALL OF OUR EPUBLICAN CONSTITUTIONS (SINCE 1889), THE REFORMS FORESEE OTHER SITUATIONS, SUCH AS THOSE IN WHICH MEASURES OF EMERGENCY OR A STATE OF EMERGENCY MIGHT BE ADOPTED SO AS TO BE ABLE TO DEAL RAPIDLY WITH SITUATIONS DISTURBING OF ORDER AND SOCIAL PEACE, OR TO PREVENT THE OUTBREAK OF WAR OR SUBVERSIVE ACTIONS."

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4. GEISEL THEN INDICATED THAT OTHER MEASURES WOULD FLOW FROM HIS PROPOSED PACKAGE THAT WOULD "MODIFY OUR LEGISLATION SO AS TO MAKE IT COMPATIBLE WITH THE PROPOSED CONSTITUTIONAL AMENDMENTS." AMONG THESE, HE SAID, "I WOULD SINGLE OUT AS IMPORTANT THE REVISION OF THE LAW THAT DEALS WITH CRIMES AGAINST NATIONAL SECURITY".

5. GEISEL'S SPEECH OTHERWISE FOCUSSED ON THE FOLLOWING THEMES. HE SOUGHT FIRST--AND FOR TRANSPARENT ELECTORAL PURPOSES--TO BOLSTER ARENA'S IMAGE AND EGO BY CLOSELY IDENTIFYING IT WITH THE REFORM PROCESS. HE WAS EXCEPTIONALLY LAUDATORY OF SENATOR PROTELLA. HIS EFFORT WAS PEPPERED WITH THE VERTICAL PRONOUN, HOWEVER, AND HE

STRESSED AT LENGTH HIS OWN LONG-STANDING COMMITMENT--SINCE HE HIMSELF BECAME PRESIDENT-DESIGNATE, HE STATED--TO A POLITICAL OPENING WHICH WOULD BE "GRADUAL AND SURE". SECONDLY, HE LEFT DOOR OPEN TO ADDITIONAL MEASURES, NOTING THAT THE PACKAGE IS NEITHER PERFECT NOR EXHAUSTIVE, BUT THAT IT IS "BETTER TO HAVE A GOOD PACKAGE, THAT CAN BE APPROVED IN GOOD TIME, THAN TO TRY FOR AN OPTIMUM RESULT THAT MIGHT NEVER BE ACHIEVED." HE SAID THE PACKAGE REPRESENTED "THE CLOSING OF A FIRST CYCLE OF REFORMS THAT MY GOVERNMENT PROPOSES TO MAKE." THIRDLY, AND WITH A WARY EYE ON THE ARMED FORCES, GEISEL TOOK CARE TO EMPHASIZE THAT THE REFORM PACKAGE DID NOT MEAN THE END OF THE REVOLUTION OR A RETURN TO THE PAST. IT MEANS INSTEAD, HE AFFIRMED, THAT BRAZILIANS HAVE MATURED, THAT THEIR INSTITUTIONS ARE MORE SOLID, AND "THAT THE ARMED FORCES ARE UNITED AND COHESIVE AND WILL NEVER PERMIT A RETURN TO THAT UNWANTED PAST". FINALLY, GEISEL ACKNOWLEDGED BOTH PRESENT AND POTENTIAL OPPOSITION TO THE PACKAGE BY THOSE WHO "WANT MORE... WANT LESS... WANT REFORMS IMMEDIATELY...AND DO NOT WANT THEM EVER". CLAIMING, HOWEVER THAT THE GREAT MAJORITY OF BRAZILIANS WILL APPLAUD THE REFORM PACKAGE, HE APPEALED TO "ALL OF ARENA" AS WELL AS THE "RESPONSIBLE OPPOSITION" TO SUPPORT AND APPROVE THEM. HE ALSO URGED HIS SUPPORTERS TO PREPARE FOR A GOOD FIGHT".

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6. COMMENT: SOME COMMENTATORS HAVE OBSERVED THAT GEISEL'S NOW OFFICIAL REFORM PACKAGE WOULD HAVE BEEN WIDELY HAILED AS A GIANT STEP TOWARD POLITICAL OPENING IF IT HAD COME LAST YEAR OR WERE IT NOT FOR THE FACT THAT HIS REPRESSIVE APRIL 1977 PACKAGE REMAINS INTACT AND IN EFFECT. IT IS NONETHELESS GENERALLY CONCEDED THAT HIS CURRENT EFFORT REPRESENTS A CONSIDERABLE AND POSITIVE STEP FORWARD, MADE BETTER THAN IT MIGHT HAVE BEEN BY THE PRESSURES THAT HAVE BEEN EXERTED ON THE REGIME--LARGELY THROUGH THE REMARKABLY FREE PUBLIC DEBATE IN THE PRESS--BY AN AROUSED CIVILIAN ELITE SUPPORTED BY BROAD SEGMENTS OF THE MILITARY. THESE PRESSURES WERE, FOR INSTANCE, DIRECTLY RESPONSIBLE FOR THE FULL REINSTATEMENT OF HABEAS CORPUS AND FOR BRINGING THE EFFECTIVE DATE OF THE REFORMS FORWARD TWO AND HALF MONTHS TO JANUARY QN 1979.

7. THE REFORM PACKAGE WILL NOW GO TO THE CONGRESS, WHERE IT WILL BE CONSIDERED BY A SPECIAL MIXED COMMISSION COMPOSED OF BIPARTISAN MEMBERSHIP FROM BOTH THE SENATE AND THE CHAMBER OF DEPUTIES. IF THE CONGRESS TAKES ITS NORMAL JULY RECESS--MADE MORE IMPORTANT THIS YEAR BY ITS MEMBERS' NEED TO PREPARE FOR THE NOVEMBER 15 CONGRESSIONAL ELECTIONS--THE REFORMS WILL BE DEBATED IN AUGUST AND EARLY SEPTEMBER. ACCORDING (OPTIMISTICALLY, WE THINK) TO THE CONGRESS

IONAL LEADERSHIP, UNDER THIS TIMETABLE THE PACKAGE WOULD BE VOTED ON (E.E., APPROVED) BY MID-SEPTEMBER. IT IS POSSIBLE, HOWEVER, THAT GEISEL MAY CALL AN EXTRAORDINARY SESSION OF CONGRESS (BY CUTTING INTO THE JULY RECESS) TO HASTEN CONSIDERATION BEFORE THE

VERY DIVIDED OPPOSITION. MDB HAS TIME TO DEVELOP A CONSENSUS
ON THE PACKAGE, POSSIBLY SHARED BY ARENA DISSIDENTS. AS GEISEL
INDICATED IN HIS ADDRESS, HE HOPES THE "RESPONSIBLE OPPOSITION" WILL
JOIN "ALL OF ARENA" IN SUPPORTING HIS REFORMS. THIS WAS, IN
ADDITION TO AN APPEAL, FRANK ACKNOWLEDGEMENT OF AT LEAST SOME
TROUBLE AHEAD. SAYRE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CONSTITUTIONAL AMENDMENTS, SPEECHES
Control Number: n/a
Copy: SINGLE
Draft Date: 26 jun 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978BRASIL05005
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780265-0458
Format: TEL
From: BRASILIA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780622/aaaaasox.tel
Line Count: 230
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: bf281782-c288-dd11-92da-001cc4696bcc
Office: ACTION ARA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 BRASILIA 4969
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2214891
Secure: OPEN
Status: NATIVE
Subject: GEISEL'S CONSTITUTIONAL REFORM PACKAGE
TAGS: PINT, PGOV, BR, (GEISEL, ERNESTO)
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/bf281782-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014